

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**DOUGLAS GREER**  
**Plaintiff,**

**V.**

**JOHN DOE and THOMAS**  
**TRANSPORTATION**  
**Defendants.**

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**NO. 4-17-CV-425-A**

**PLAINTIFF'S AMENDED COMPLAINT**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Douglas Greer, hereinafter called Plaintiff, complaining of and about JOHN DOE and Thomas Transportation, hereinafter called Defendant, and for cause of action shows unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

**PARTIES AND SERVICE**

2. Plaintiff, Douglas Greer, is an Individual whose is a resident of Texas.
3. The last four numbers of Douglas Greer's social security number are 4605.
4. Defendant JOHN DOE, an Individual who's address is unknown at this time.
5. Defendant Thomas Transportation is a foreign corporation and existing under the laws of the State of Georgia whose registered office address is 1825 Oak Haven Drive, Albany,

Georgia 31701 and, pursuant to T.C.P.R.C. §17.044(b) may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant Thomas Transportation engages in business in Texas but does not maintain a regular place of business in Texas and has not designated or maintained a resident agent for service of process in Texas. This suit arises from Defendant Thomas Transportation doing business in Texas.

### **JURISDICTION AND VENUE**

6. The subject matter in controversy is within the jurisdictional limits of this court.
7. Plaintiff seeks:
  - a. monetary relief over \$100,000 but not more than \$200,000.
8. Venue in Tarrant County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.
9. Venue in Tarrant County is proper in this cause.

### **FACTS**

10. On October 5<sup>th</sup>, 2015, at approximately 6:00 p.m., Douglas Greer was driving eastbound on Interstate 20 in Tarrant County, Texas when the Defendant, JOHN DOE, failed to maintain a proper lookout and speed, causing him to collide with the rear end of Plaintiff's vehicle.

11. As a result of the incident described herein, Plaintiff suffered serious injuries that required medical treatment. The treatment sought by Plaintiff was reasonable and necessary for the injuries he sustained.

### **RESPONDEAT SUPERIOR**

12. Whenever in this Petition it is alleged that Defendants did or failed to do any particular act and/or omission, it is meant that Defendants, acting individually, or by and through agents, officers, directors, servants, and employees, either did or failed to do that particular act and/or omission, in the course and scope of his employment, agency or contract with Defendants, and in furtherance of Defendants' business. Pursuant to Texas Rules of Civil Procedure 28, any entity doing business under an assumed name may be sued in its assumed name for the purpose of enforcing against it a substantive right.

### **NEGLIGENCE PER SE**

1. Defendants, collectively, individually, and/or through its agents or employees, violated safety rules and regulations that are intended to protect against the harm that resulted and to protect the Plaintiff and class of persons to which she belongs.

2. Defendants violated, among other safety rules, sections 542.206, 545.062 and 545.351 of the Texas Transportation Code, Rules 390.11, 391.11, 391.13, 392.6 of the Federal Motor Carrier Safety Regulations, and other safety standards and regulations designed to protect against the type of harm that resulted from Defendants' negligent and grossly negligent operation of the tractor trailer involved in the incident in questions.

3. These regulations provide minimum standards and do not allow for judgment or discretion in whether or how to comply with the regulations. The safety standards were

intended to protect members of the public, including the Plaintiff Douglas Greer. Defendants' violation of these safety rules, regulations, and industry safety standards constitutes *negligence per se*.

**PLAINTIFF'S CLAIM OF NEGLIGENCE  
AGAINST JOHN DOE**

4. Plaintiff would show that Defendant JOHN DOE was the driver of a tractor-trailor operated for profit. Further, Plaintiff would show this Court that the negligent acts and omissions of the Defendant JOHN DOE and statutory violations, as set out herein, separately and collectively, were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiff. Any statutory violations constitute negligence *per se*.

5. Defendant's violation of §545.351 of the Texas Transportation Code, as well as other sections of the Texas Transportation Code and the Federal Motor Carrier Safety Regulations constitutes negligence *per se*. These rules were designed for the protection of a class of persons including Plaintiff. Defendant's violations of these rules and statutes created a risk of injury to Plaintiff which the standards were designed to protect against. Such negligence was a proximate cause of the injuries and damages suffered by the Plaintiff.

6. The negligent, careless and reckless disregard of the duty owed by Defendant JOHN DOE also consisted of, but is not limited to, the following acts and omissions:

- a. failing to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- b. failing to yield as a person of prudent care would have done;
- c. operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances;

- d. failing to apply the brakes to his motor vehicle in a timely and prudent manner;
- e. failing to control his speed and driving at an unsafe speed in violation of §545.351 of the Texas Transportation Code;
- f. failing to take reasonable care in controlling his vehicle;
- g. operating his vehicle without due regard for the rights of others;
- h. driver inattention;
- i. failure to control his vehicle;
- j. violating §545.351 of the Texas Transportation Code;
- k. failing to comply with the Federal Motor Carrier Safety Regulations; and
- l. such additional acts of negligence, which will be established as the case progresses.

#### **PLAINTIFF'S CAUSE OF ACTION AGAINST THOMAS TRANSPORTATION**

7. The negligent acts and omissions of Defendant Thomas Transportation and statutory violations, as set out herein, separately and collectively, were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiff. Any statutory violations constitute negligence *per se*. More specifically, Defendants violated §545.351 of the Texas Transportation Code, among others, as well as sections of the Federal Motor Carrier Safety Regulations.

8. Defendants' violations of these rules and statutes created a risk of injury to Plaintiff which the standards were designed to protect against. Such negligence was a proximate cause of the injuries and damages suffered by the Plaintiff.

9. Defendants' negligent acts and omissions also include, among others, the following:

- a. At the time and on the occasion in question, Defendant JOHN DOE was in the course and scope of his employment with Defendant Thomas Transportation by virtue of the theory of respondeat superior, Defendant Thomas Transportation is liable for all acts and omissions of negligence of its agent, employee, or representative, Defendant JOHN DOE;

- b. entrusting the vehicle to Defendant JOHN DOE when Defendant Thomas Transportation knew or should have known that Defendant JOHN DOE was an incompetent driver, unqualified to drive a commercial motor vehicle, inadequately trained, and/or reckless;
- c. failing to properly train Defendant JOHN DOE in the operation of the vehicle in question;
- d. hiring and entrusting incompetent drivers, including JOHN DOE, with the right to operate a commercial motor vehicle;
- e. failing to do what a reasonably prudent motor carrier would do under the same and similar circumstance;
- f. failing to comply with the Texas Transportation Code and the Federal Motor Carrier Safety Regulations; and
- g. such other acts of negligence, which will be established as the case progresses.

10. Defendant's conduct was conducted with reckless disregard of the safety of others, including Plaintiff, and conscious indifference to the rights, welfare and safety of those persons affected by it, including Plaintiff.

### **GROSS NEGLIGENCE**

11. Plaintiff respectfully shows this court and jury that the injuries and damages that Plaintiff sustained in the incident in question were caused by the gross negligence of Defendants acting by and through their employees, agents, drivers, officers, and representatives in the course of employment for said Defendants.

12. Plaintiff would further show, these acts and omissions, when viewed from the standpoint of Defendants, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendants had actual, subjective awareness of the risks of their conduct, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

13. Additionally, Defendant Thomas Transportation is grossly negligent as a result

of recklessly hiring and entrusting a commercial motor vehicle to JOHN DOE, who was unqualified, through training and/or experience, to operate a commercial motor vehicle. The reckless hiring of and entrusting a commercial motor vehicle to JOHN DOE, who was unfit to operate a commercial motor vehicle, proximately caused Plaintiff's damages.

14. As such, Defendants are grossly negligent and should be subjected to exemplary damages.

#### **DAMAGES FOR PLAINTIFF DOUGLAS GREER**

15. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff Douglas Greer has suffered severe injuries and incurred the following damages:

- a. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Douglas Greer, for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;
- b. Reasonable and necessary medical care and expenses that will, in all reasonable probability, be incurred in the future;
- c. Physical pain and suffering in the past;
- d. Physical pain and suffering that will, in all reasonable probability, be suffered in the future;
- e. Physical impairment in the past;
- f. Physical impairment which, in all reasonable probability, will be suffered in the future;
- g. Mental anguish in the past;
- h. Mental anguish which, in all reasonable probability, will be suffered in the future;
- i. Loss of earnings and/or earning capacity in the past;
- j. Loss of earning capacity, which, in all probability, will be incurred in the future;
- k. Disfigurement in the past and future; and
- n. Cost of medical monitoring and prevention in the future.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, Douglas Greer, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

Godsey Martin, P.C.

By: /s/Ryan E. Rogers

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